Section 11
Circulars, Pre-listing Statements/Prospectuses and Announcements

**Scope of section**

This section sets out the requirements that apply to all circulars, pre-listing statements and announcements published by issuers.

Where the circular, pre-listing statement or announcement, or the transaction or matter to which it relates, has unusual features or where it is not possible to comply with the relevant requirements set out in this section, the JSE must be consulted at an early stage in order to discuss the details of the transaction and, where necessary, to obtain a ruling from the JSE.

When a new applicant or existing issuer issues a prospectus, the presumption is made that, apart from compliance with the Act, such prospectus will also comply with and contain all necessary disclosures as if it were a pre-listing statement subject to compliance with the Listings Requirements. For the purposes of this section and its appendix, any reference to a pre-listing statement includes reference to a prospectus and vice versa.

Sections 9 and 10 detail the information to be included in announcements and circulars relating to transactions and related party transactions.

The main headings of this section are:

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| 11.1 Contents of all circulars and pre-listing statements11.2 Approval11.3 Introductions11.6 Placings11.7 Offers for sale or subscription11.10 Renounceable rights offers and non-renounceable rights offers11.11 Rights offers and claw-back offers11.14 Renounceable Rights Offers – LAs11.16 Capitalisation issues, cash disbursements and dividends11.18 Transactions (acquisitions and disposals)11.19 Issues for cash11.23 Repurchase of securities11.28 Payments to securities holders11.32 Voluntary liquidation11.36 Change of name11.37 Alteration of share capital, authorised shares and rights attaching to a class/es of shares11.38 Redemption of listed redeemable securities11.39 Change of transfer office11.40 Cautionary announcements11.43 Embargo placed on company announcements/circulars11.44 Name and logo of a sponsor11.45 Other classes of security11.46 Communication with holders of bearer securities11.47 Dissemination of information11.48 Transfer from one sub-section of the List to another11.53 Odd lot offers11.54 Transactions and corporate actions regulated by the Panel11.56 Supplementary circulars11.58 Summary circulars, revised listing particulars and pre-listing statements/prospectuses11.60 Restrictive funding arrangements11.61 Incorporation by reference11.64 Material objectionsAppendix 1 to Section 11Appendix 2 to Section 11 |

Contents of all circulars and pre-listing statements

11.1 Circulars and pre-listing statements must:

 (a) provide a clear and adequate explanation of the subject matter;

 (b) if voting or other action is required:

 (i) contain all information necessary to allow the holders of the securities to make a properly informed decision; and

 (ii) contain a heading drawing attention to the importance of the document and advising holders of securities that are in any doubt as to what action to take, to consult appropriate independent advisers;

 (c) state in which other official languages, if any, the circular or pre-listing statement is also available and where copies of such circular or pre-listing statement and translations thereof may be obtained;

 (d) include all the information published, or to be published, simultaneously with the circular or pre-listing statement, in any announcement issued in connection with the transaction to which the circular or pre-listing statement relates;

 (e) where new securities are being issued in substitution for existing securities, explain what will happen to existing documents of title;

 (f) provide clear guidance in respect of any event requiring action by certificated and dematerialised shareholders, as follows:

 (i) wherever reference is made to shareholders or members of a company the procedures for certificated, dematerialised own name and dematerialised shareholders must be separately detailed;

 (ii) the surrender of share certificates will only apply to certificated shareholders and the surrender forms must state this;

 (iii) in the case of dematerialised shareholders, the CSDP or broker will automatically action the surrender of ownership title in accordance with the corporate action or after having received an election instruction;

 (iv) election forms only apply to certificated shareholders and the election forms must state this. The document concerned must state that dematerialised shareholders’ elections should be provided to their appointed CSDP or broker in the form stipulated in the custody agreement entered into between the shareholder and the CSDP or broker;

 (v) the form of proxy included in the circular should state that it is for completion by certificated shareholders and own name dematerialised shareholders only. The circular must state that dematerialised shareholders must inform their CSDP or broker of their intention to attend any general meeting in order for such CSDP or broker to be able to issue them with the necessary authorisation to enable them to attend such meeting, or, alternately, should they not wish to attend the meeting, they should provide their CSDP or broker with their voting instruction;

 (vi) the salient dates should include all the dates in the declaration data and finalisation information. The definitions for these dates should be included in the “Definitions” section of the document; and

 (vii) if new securities are to be issued, shareholders or members should be given the option to receive such new securities in certificated or dematerialised form.

11.1A Certain information which must be disclosed in a circular and/or pre-listing statement may be incorporated by reference pursuant to paragraphs 11.58 and 11.59.[[1]](#footnote-1)

Change of transfer office

11.39 The following procedures are required when there is a change in the transfer office of an issuer:

 (a) a notice advising beneficial owners of the issuer’s change of transfer office, together with the relevant details, must be sent to all registered holders;

 (b) an announcement detailing the changes must be published at least two weeks before the due date of change; and

 (c) the issuer must advise the JSE, in writing, of the change and must include details in respect of the issuer’s new transfer office.

Embargo placed on company announcements/circulars

11.43 A draft announcement of price sensitive information may not be released to any third party under a time embargo before it is released in terms of paragraph 3.5 and circulars may not be released to a third party under a time embargo prior to it being approved by the JSE and sent to shareholders.

Name and logo of a sponsor

11.44 The name of the sponsor must appear in any announcement or document issued by or on behalf of any issuer.[[2]](#footnote-2)

Other classes of security

11.45 If a circular, pre-listing statement/listing particulars or press announcement is dispatched to the beneficial owners of any particular class of security, the issuer must dispatch a copy or summary of such document to the beneficial owners of all other classes of securities in such issuer, unless the contents of such document are irrelevant to them.

Communication with holders of bearer securities

11.46 If there is a need to communicate with beneficial owners of listed bearer securities, the issuer must release an announcement referring to the communication and giving an address or addresses from which copies of such communication can be obtained by beneficial owners of bearer securities.

Dissemination of information

11.47 Where copies of annual financial statements, abridged annual financial statements, pre-listing statements/listing particulars, circulars, proxy forms and dividend or interest notices are required to be distributed to shareholders, it is the responsibility of the issuer to ensure that such distribution is made to all certificated holders and to those dematerialised beneficial holders of its securities who have elected to receive such documents at the cost of the issuer.[[3]](#footnote-3)

Transactions and corporate actions regulated by the Panel [Remove Panel wording from Section 9]

11.54 Any transaction or corporate action regulated by the Panel, which does not contain or involve any other corporate action referred to in paragraph 16.2, must only comply with:[[4]](#footnote-4)

 (a) the relevant corporate action timetable, unless otherwise agreed by the JSE; and[[5]](#footnote-5)

 (b) Section 8 in respect of pro forma financial information, to the extent that such information is included in the documentation distributed to shareholders.

11.55 The JSE will review the relevant documentation to ascertain whether it has any other Listings Requirements implications, but will only approve those matters referred to in paragraph 11.54.[[6]](#footnote-6)

Transactions and corporate actions regulated by the Panel [Remove Panel wording from Section 9]

16.37 The following information is required to be submitted to and approved by the JSE before approval will be granted for transactions and corporate actions as contemplated in paragraphs 11.54 to 11.55:[[7]](#footnote-7)

 (a) the circular, scheme document or offer document;

 (b) a copy of the Panel’s approval;[[8]](#footnote-8)

 (c) copies of any exchange control (refer to paragraph 16.26) approvals required; and

 (d) the appropriate documentation and listing fee as published and available on the JSE website, [www.jse.co.za](http://www.jse.co.za), per Section 17.[[9]](#footnote-9)

Supplementary circulars [Check Section 9 Supplementary Notifications]

11.56 The JSE must be advised immediately and a supplementary circular published if, at any time after a circular has been published and before the relevant shareholders meeting, the applicant becomes aware that:[[10]](#footnote-10)

 (a) there has been a significant change affecting any matter contained in the circular; or

 (b) a significant new matter has arisen, the inclusion of information on which new matter would have been required to be disclosed in the original circular had such information been known at that time;

 (c) “significant” means:

 (i) a change of 10% or more from the original pro forma financial effects included in the circular;

 (ii) a change in the terms of the transaction such that the percentage ratios are affected and the transaction requires re-categorisation into a higher category; or

 (iii) any other matter or element that could influence an investor’s assessment of the matter under consideration.

11.57 Supplementary circulars must:[[11]](#footnote-11)

 (a) provide full details of the change or new matter;

 (b) contain the responsibility statement required by paragraph 7.B.22; and

 (c) contain a statement that, save as disclosed, there has been no significant change and no significant new matter that has arisen since publication of the previous circular.

Summary circulars, revised listing particulars and pre-listing statements/prospectuses

11.58 An issuer may dispatch a summary circular with respect to any corporate action pursuant to the Listings Requirements provided it has an operational website. The summary circular must be prepared on the circular approved by the JSE and must not be misleading or inaccurate. The sponsor must provide written confirmation to the JSE before the summary circular is dispatched which must:[[12]](#footnote-12)

 (i) include a statement from the sponsor that it has reviewed and approved the summary circular and that it complies with Appendix 2 to Section 11 of the Listings Requirements;

 (ii) include a statement by a director of the applicant issuer that he/she is satisfied that the summary circular includes accurate information from the circular approved by the JSE;

 (iii) be signed by the company secretary, a director of the applicant issuer and the sponsor; and

 (iv) include the summary circular to be dispatched.

11.59 The summary circular must contain a notice of availability on where the full contents of the full circular can be viewed or accessed. The cover page of the summary circular must include a statement in bold and in capital letters stating clearly: [[13]](#footnote-13)

 (a) that the summary circular is only a summary of the information in the full circular and does not contain full or complete details; and

 (b) the details of the full website address of the issuer where the full circular can be viewed or accessed.

Incorporation by reference

11.61 Information which has been prepared pursuant to the provisions of the Listings Requirements may be incorporated in circulars and pre-listing statements by reference, provided that any information incorporated by reference:[[14]](#footnote-14)

 (a) must be the most recent available to the applicant issuer. Any information that has changed since publication and the last practicable date of the circular and/or pre-listing statement may be incorporated by reference, provided any changes are appropriately disclosed in the circular and/or pre-listing statement;

 (b) must be disclosed under a separate heading in a cross reference table to enable shareholders and prospective investors to identify easily specific items of information incorporated by reference:

 (i) the cross reference table must contain a statement that:

 (aa) the information can be accessed on the applicant issuer’s website (also specifying the route to same);

 (bb) the information is available for inspection at the registered office or other designated office of the applicant issuer and the offices of the sponsor/DA and/or through a secure electronic manner at the election of the person requesting inspection, that such inspection is available to shareholders and/or prospective investors at no charge, during business hours for a reasonable period (being not less than 14 days).[[15]](#footnote-15)

11.62 Subject to paragraph 11.63, documents that may be incorporated by reference may include, but is not limited to, financial information of the applicant issuer (annual and interim reports), financial information on the subject of a substantial acquisition or disposal, pro forma financial information, competent person’s report, valuation reports and/or the memorandum of incorporation of the applicant issuer.[[16]](#footnote-16)

11.63 Historical financial information in respect of a new applicant, may not be incorporated by reference in a prospectus or new-listing statement and must be included in the body of the prospectus or pre-listing statement.[[17]](#footnote-17)

Circulars and notices of annual general meetings[[18]](#footnote-18)

11.64 In instances where the Listings Requirements require an applicant issuer to send a circular to its securities holders (including but not limited to general issues of shares for cash, general repurchases and general payments), the JSE will allow the circular to be substituted by the required disclosure being made in the applicant issuer’s annual report/annual financial statements provided all the required information is either:[[19]](#footnote-19)

 (a) included in the notice of annual general meeting; or

 (b) clear cross references are included in the notice of annual general meeting indicating where in the annual report/annual financial statements the information can be obtained.

Material objections[[20]](#footnote-20)

11.65 The sponsor and the applicant issuer must immediately inform the JSE in writing of any material objections which have been reported/notified to the sponsor or applicant issuer, regarding the listing of the applicant issuer during the period from the release date of the announcement pursuant to paragraphs 11.3, 11.6 or 11.7 above and up to the submission of the Part II documents pursuant to paragraph 16.12.[[21]](#footnote-21)

Appendix 1 to Section 11[[22]](#footnote-22)

Guidelines on the publication of information

The following table provides a summary of the requirements for publication of information relating to listed companies:

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| **Reference (section paragraph unless otherwise stated)** | **Information** | **Electronic** **submission** **to the JSE** | **Distribute to share-holders** | **Publish in press in compliance with paragraphs 3.46 to 3.48 Note 3** | **Publish through SENS** |
| 3.4(b) | Trading statement | No | No | No | Yes |
| 3.11 | Dividend announcement | No | No | No | Yes |
| 3.15 | Condensed financial statements  | No | No | YesNote 3 | Yes, available through the JSE cloudlink |
| 3.15 | Annual financial statements  | Yes  | NoNote 4 | No | Yes, available through the JSE cloudlink |
| 3.15 | Summary financial statements  | No | No | No | Yes available through the JSE cloudlink |
| 3.16 | Annual reports | Yes | No | No | Yes, available through the JSE cloudlink |
| 3.17 | Interim Results | No | No | Yes | Yes, available through the JSE cloudlink |
| 3.18 | Quarterly Results | No | No | No | Yes, available through the JSE cloudlink |
| 3.16(a) | Notices regarding annual general meetings | Yes | Yes | No | Yes, in compliance with paragraph 3.90 |
| 3.46–3.48 | All announcements except those specifically detailed in this appendix | No | No | YesNote 3 | Yes |
| 3.49 | Circulars | Yes | Yes | No | No |
| 3.49 | Pre-listing statements and prospectuses | Yes | Yes | YesNotes 1 and 3 | YesNote 1 |
| 3.78 | Change of auditors | Yes | No | No | Yes |
| 3.59 | Changes to the boards of directors | Yes | No | No | Yes |
| 3.63 | Directors dealings in securities | No | No | No | Yes |
| 11.2 | Voluntary price sensitive announcements | No | No | No | Yes |
| 16.21(g) | Annual compliance report prepared pursuant to section 13G(2) of the BEE Act. | Yes | No | No | Yes (only a notice of availability referring to the website of the issuer) |

Notes:

1. Alternatively, an abridged version of the pre-listing statement/prospectus can be published through SENS and in the press.[[23]](#footnote-23) [[24]](#footnote-24) [[25]](#footnote-25)

2. If an applicant issuer makes a voluntary publication in the press, there is no minimum information required but the applicant issuer must ensure that the information is not misleading.[[26]](#footnote-26) [[27]](#footnote-27)

3. Announcements requiring publication in the press may be short-form announcements published in accordance with paragraphs 3.46 and 3.46(A).[[28]](#footnote-28) [[29]](#footnote-29) [[30]](#footnote-30)

4 A South African company must consider its statutory obligations to distribute its annual financial statements under the Companies Act.[[31]](#footnote-31)

Appendix 2 to Section 11[[32]](#footnote-32)

Information to be included in summary circulars

The following information must be contained in the summary circular in respect of circulars dispatched pursuant to the Listings Requirements:

1. The statement in accordance with paragraph 11.59.

2. Details of the corporate action:

 • description of the corporate action;

 • parties involved;

 • rationale;

 • purchase consideration/price receivable or to be paid;

 • timetable and effective date;

 • guidance in respect of any event requiring action by certificated and dematerialised shareholders, including voting and other actions required.

3. Details of any conditions precedent and disclosure of any outstanding conditions precedent.

4. In the event of a fairness opinion being included, a copy of the fairness opinion and a statement by the board of directors confirming whether the corporate action is fair or not insofar as the shareholders of the issuer are concerned and that the board of directors has been advised by an independent expert acceptable to the JSE.

5. Details of the name of any related party and a description of the relationship between the issuer and the related party and the extent of the interest of such party in the corporate action.

6. Details on whether any parties are excluded from voting on the corporate action and the reasons therefore.

7. The report of historical financial information, profit forecast and pro forma financial information, including the reporting accountants’ report thereon.

8. If required, the Competent Person’s Report pursuant to Section 12.

9. If required, the valuation report pursuant to Section 13, the additional property information pursuant to paragraphs 13.17–13.19 and the REIT disclosure requirements.

10. Details of the financial effects of the corporate action in terms of:

 • Net Asset Value per share.

 • Net Tangible Asset Value per share.

 • Earnings per share.

 • Headline Earnings per share.

11. In the event of shares being issued or repurchased, disclosure of the number and price at which the shares are to be issued or repurchased and details of any discount/premium (if any).

12. Working capital statement pursuant to paragraphs 7.E.7–7.E.8 (if applicable).

13. Details of irrevocable undertakings received.

14. Details of any name change.

15. Details of any changes to the board of directors as a result of the corporate action.

16. A recommendation given by the board of directors as to how shareholders should vote and an indication as to how the directors intend to vote their shares.

17. Any other relevant information.

Additional information to be included in summary circulars in relation to revised listing particulars and pre-listing statement/prospectuses:

1. The reason for the revised listing particulars.

2. Description of business pursuant to paragraph 7.D.2.

3. Directors’ information pursuant to paragraphs 7.B.1 and 7.B.9.

4. Share capital of the issuer pursuant to paragraphs 7.A.4 or 7.A.5.

5. In respect of property companies, the value pursuant to the valuation report/s.

6. In respect of mineral companies, the mineral resource and reserve statement and valuation statement.

7. In respect of an investment entity, the information required pursuant to paragraphs 15.5 and 15.7.

8. Disclosure of directors’ interests pursuant to paragraphs 7.B.20 and 7.B.21.

Additional information required in summary circulars in respect of sale or subscription of shares, rights offers and claw back offers:

1. Details on any underwriting and commission payable.

2. Details of any minimum subscription.

3. Details on the treatment of over-subscription.

4. Details on the treatment of excess applications.

The summary circulars must be accompanied by the notice of meeting, proxy and voting forms in full form complying with the Listings Requirements.

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
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